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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,805	02/18/2002	James S. Stefely	51737US019	7639
32692	7590	10/17/2003	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427			WEBMAN, EDWARD J	
		ART UNIT		PAPER NUMBER
		1617		//
DATE MAILED: 10/17/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.



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Office Action Summary	Application No.	Applicant(s)
	10/078705 WGBMAN	STAFF G2 Y Group Art Unit 1617

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- Responsive to communication(s) filed on 3/25/03.
- This action is FINAL.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- Claim(s) 42-87 is/are pending in the application.
- Of the above claim(s) 45 is/are withdrawn from consideration.
- Claim(s) _____ is/are allowed.
- Claim(s) 42-44, 46-52 is/are rejected.
- Claim(s) 53-87 is/are objected to.
- Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The proposed drawing correction, filed on _____ is approved disapproved.
- The drawing(s) filed on _____ is/are objected to by the Examiner.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All Some* None of the CERTIFIED copies of the priority documents have been received.
- received in Application No. (Series Code/Serial Number) _____.
- received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

- Information Disclosure Statement(s), PTO-1449, Paper No(s). 2 Interview Summary, PTO-413
- Notice of Reference(s) Cited, PTO-892 Notice of Informal Patent Application, PTO-152
- Notice of Draftsperson's Patent Drawing Review, PTO-948 Other _____

Office Action Summary

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 42-44, 46-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Byron et al.

Byron et al teaches a metered dose inhaler formulation comprising a solubilized drug, propellant, and sorbitan monoleate as a polymeric surfactant (ABSTRACT), PEG 300 is disclosed (TABLE 1). Less than 5% surfactant is specified (column 5 line 9).

Claims 42-44, 46-52 are rejected.

Claims 53-87 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward J. Webman whose telephone number is 308-4432. The examiner can normally be reached on Monday-Friday 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Padmanabhan can be reached on 305-1877. The fax phone number for the organization where this application or proceeding is assigned is 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1234.

Webman/tgd
May 30, 2003

J
MAY 30 2003
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